JAYARAJAN ANJAKULATH NAIR
Digitally signed by JAYARAJAN ANJAKULATH NAIR
Date: 2022.01.05 17:01:27 +0530

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.9229 OF 2021

Shivaji Dnyanu Bhosale & Ors. .. Petitioners

Vs.

Dada Dhondi Kachre (Deceased)
Through LRs & Ors. .. Respondents

…

Mr. Milind Deshmukh for the petitioners.

…

CORAM : RAVINDRA V. GHUGE, J.

DATED : 04TH JANUARY, 2022.

P.C:-

1. Rule. Rule made returnable forthwith and heard finally, by the consent of the parties.

2. The petitioners are aggrieved by the order dated 13/03/2020 passed by the learned Joint Civil Judge, Junior Division, Dahiwadi, District Satara, vide which, application Exh-182, filed by the petitioners in R.C.S. No.276 of 2000 has been rejected. Exh-182 was filed for seeking a direction to call the Gramsevak of Village Gondavale, for examination.

3. Regular Civil Suit No.276 of 2000 is filed for seeking mandatory injunction. The same is pending for the last 22 years. The Gramsevak of Village Gondavale was produced by the defendants as witness DW-2. After the cross-examination was completed, the defendants prayed for re-examination vide application Exh-172. The said application was rejected by the trial court. A review application Exh-176 was filed by the defendants and the same was allowed. The Gramsevak was, thereafter, re-examined and, after further cross-examination of the witness, he was discharged. As some admissions were given by him, the defendants again filed Exh-182, once again seeking orders to recall him for re-examination. The pretext on which this request was made by the defendants is that they desire to pose a solitary question to the witness as to whether the certified copies of certain documents, are from his office.

4. It is well settled that a witness cannot be repeatedly summoned for re-examination. In the present case, DW-2 has undergone lengthy examination and cross-examination. Thereafter, he was again re-examined. After further cross-examination, he was discharged. The defendants desire his production, for the third time, purportedly to pose a question to him.

5. I do not find that the impugned order could be termed as being perverse or erroneous. It is apparent that the defendants intend to delay the proceedings, which are pending for the last 22 years, before the trial court.

6. This petition is devoid of merits and is, therefore, dismissed. Rule is discharged.

7. I deem it appropriate to direct the trial court dealing with R.C.S. No.276 of 2000 to dispose of the said suit on it's merit, as expeditiously as possible and, in any case, on or before 15/10/2022 (prior to Diwali vacation). If any of the parties seek adjournments on unreasonable or trivial grounds, the trial court would be at liberty to reject such request and impose costs on the party attempting to delay the matter.

[RAVINDRA V. GHUGE, J.]

AJN